



General Assembly

Substitute Bill No. 231

February Session, 2006

* SB00231BA 030906 *

**AN ACT CONCERNING VIOLATION OF THE CONNECTICUT
BUSINESS OPPORTUNITY INVESTMENT ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36b-72 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) Whenever it appears to the commissioner, after an investigation,
4 that any person or persons have violated, are violating or are about to
5 violate any of the provisions of sections 36b-60 to 36b-80, inclusive, or
6 any regulation, rule or order adopted or issued under said sections or
7 that a further sale or offer to sell would constitute a violation of said
8 sections, or any such regulation, rule or order, [adopted or issued
9 under said sections,] the commissioner may [in his discretion] order
10 the person or persons to cease and desist from the violations of the
11 provisions of said sections or [of the] any such regulations, rules or
12 orders [adopted or issued under said sections] or from further sale or
13 offering to sell business opportunities constituting or which would
14 constitute a violation of the provisions of said sections or [of the] any
15 such regulations, rules or orders, [adopted or issued under said
16 sections.] After any such order is issued, the person or persons named
17 in such order may, within fourteen days after receipt of the order, file a
18 written request for a hearing. Such hearing shall be held in accordance
19 with the provisions of chapter 54.

20 (b) (1) Whenever [it appears to] the commissioner finds as the result
21 of an investigation that any person or persons have violated any of the
22 provisions of sections 36b-60 to 36b-80, inclusive, or any regulation,
23 rule or order adopted or issued under said sections, the commissioner
24 may send a notice to such person or persons by certified mail, return
25 receipt requested, or by any express delivery carrier that provides a
26 dated delivery receipt. Any such notice shall include: (A) A reference
27 to the title, chapter, regulation, rule or order alleged to have been
28 violated; (B) a short and plain statement of the matter asserted or
29 charged; (C) the maximum fine that may be imposed for such
30 violation; and (D) the time and place for the hearing. Such hearing
31 shall be fixed for a date not earlier than fourteen days after the notice is
32 mailed.

33 (2) The commissioner shall hold a hearing upon the charges made
34 unless such person or persons fail to appear at the hearing. Such
35 hearing shall be held in accordance with the provisions of chapter 54.
36 After the hearing if the commissioner finds that the person or persons
37 have violated any of the provisions of sections 36b-60 to 36b-80,
38 inclusive, or any regulation, rule or order adopted or issued under said
39 sections, the commissioner may, [in the commissioner's discretion and]
40 in addition to any other remedy authorized by said sections, order that
41 a fine not exceeding [ten] one hundred thousand dollars per violation
42 be imposed upon such person or persons. If such person or persons fail
43 to appear at the hearing, the commissioner may, as the facts require,
44 order that a fine not exceeding [ten] one hundred thousand dollars per
45 violation be imposed upon such person or persons. The commissioner
46 shall send a copy of any order issued pursuant to this subsection by
47 certified mail, return receipt requested, or by any express delivery
48 carrier that provides a dated delivery receipt, to any person or persons
49 named in such order.

50 (c) Whenever it appears to the commissioner that any person or
51 persons have violated, are violating or are about to violate any of the
52 provisions of sections 36b-60 to 36b-80, inclusive, or any regulation,

53 rule or order adopted or issued under said sections, or that the further
54 sale or offer to sell would constitute a violation of said sections, or any
55 such regulation, rule or order, [adopted or issued under said sections,]
56 the commissioner may [in his discretion and] in addition to any other
57 remedy authorized by said sections: (1) [bring] Bring an action in the
58 superior court for the judicial district of Hartford to enjoin the acts or
59 practices constituting a violation and to enforce compliance with said
60 sections or any such regulation, rule or order. [adopted or issued
61 under said sections.] Upon a proper showing, a permanent or
62 temporary injunction, restraining order or writ of mandamus shall be
63 granted and a receiver or conservator may be appointed for the
64 defendant or the defendant's assets. The court shall not require the
65 commissioner to post a bond; (2) seek a court order imposing a fine not
66 to exceed [ten] one hundred thousand dollars per violation against any
67 person found to have violated any order issued by the commissioner;
68 or (3) in addition to any other remedies provided by this section, apply
69 to the superior court [hearing a matter under this section] for the
70 judicial district of Hartford for an order of restitution whereby the
71 defendants in such action shall be ordered to make restitution of those
72 sums shown by the commissioner to have been obtained by them in
73 violation of any of the provisions of said sections or any such
74 regulation, rule or order, plus interest at the rate set forth in section 37-
75 3a. Such restitution shall, at the option of the court, be payable to the
76 receiver or conservator appointed pursuant to subdivision (1) of this
77 subsection, or directly to the persons whose assets were obtained in
78 violation of any provision of said sections or any such regulation, rule
79 or order.

80 (d) Any time after the issuance of an order or notice provided for in
81 subsection (a) or (b) of this section, the commissioner may accept an
82 agreement by any [person charged with violating any provision of
83 sections 36b-60 to 36b-80, inclusive,] respondent named in such order
84 or notice to enter into a written consent order in lieu of an adjudicative
85 hearing. The acceptance of a consent order shall be within the
86 complete discretion of the commissioner. [or such presiding officer as

87 has been designated by the commissioner.] The consent order
88 provided for in this subsection shall contain (1) an express waiver of
89 the right to seek judicial review or otherwise challenge or contest the
90 validity of such order or notice; (2) a provision that [the] such order or
91 notice may be used in construing the terms of the consent order; (3) a
92 statement that such consent order shall become final when issued; (4) a
93 specific assurance that none of the violations alleged in such order or
94 notice shall occur in the future; (5) such other terms and conditions as
95 are necessary to further the purposes and policies of sections 36b-60 to
96 36b-80, inclusive; (6) the signature of each of the individual
97 respondents evidencing [his] such respondent's consent; and (7) the
98 signature of the commissioner or of [his] the commissioner's
99 authorized representative.

100 Sec. 2. Section 36b-79 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective October 1, 2006*):

102 Within one hundred and twenty days following the end of the
103 seller's most recent fiscal year and each year thereafter, each seller
104 whose business opportunity has been registered under sections 36b-60
105 to 36b-80, inclusive, shall renew the registration by submitting to the
106 commissioner: (1) An annual renewal registration fee of one hundred
107 dollars, which shall be nonrefundable; (2) an application filed in
108 accordance with the requirements of subsection (a) of section 36b-65,
109 reflecting all amendments as of the date of filing; (3) a disclosure
110 document filed in accordance with the requirements of sections 36b-62
111 and 36b-63, reflecting all amendments, clearly marked, since the date
112 of the most recent disclosure document that was filed with the
113 commissioner, or, if no such amendments have been made, an affidavit
114 so stating; and (4) financial statements in accordance with the
115 requirements of subsection (b) of section 36b-65. In the event that the
116 seller fails to submit the fee and information within the time period
117 and in accordance with requirements of this section, the registration of
118 such seller's business opportunity shall terminate.

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| This act shall take effect as follows and shall amend the following sections: | | |
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| Section 1 | <i>October 1, 2006</i> | 36b-72 |
| Sec. 2 | <i>October 1, 2006</i> | 36b-79 |

BA *Joint Favorable Subst.*